

Separation Allowances and Railroad Retirement Benefits

Many railroad employees have asked the Railroad Retirement Board how the acceptance of a separation allowance from a railroad employer affects their future eligibility for benefits under the Railroad Retirement and Railroad Unemployment Insurance Acts. The following questions and answers provide information on this subject.

1. Would leaving railroad work and accepting a separation allowance mean that an employee forfeits any future entitlement to an annuity under the Railroad Retirement Act?

As long as an employee has acquired at least 120 months (10 years) of creditable rail service, he or she would be eligible for a regular railroad retirement annuity upon reaching retirement age, regardless of whether or not a separation allowance was ever accepted.

However, if a person permanently leaves railroad employment before attaining retirement age, he or she may not be able to meet requirements for additional benefits, such as supplemental annuities and occupational disability annuities, paid by the Board to career employees.

2. How are separation allowances treated under the Railroad Retirement and Railroad Unemployment Insurance Acts?

Separation, displacement, dismissal and similar payments that result from abolishment of an employee's job are creditable as compensation under the Railroad Retirement and Railroad Unemployment Insurance Acts. While the actual names of these payments may vary, the treatment given them by the Board will depend upon whether the employee relinquished or retained his or her job rights.

If the employee relinquishes job rights to obtain the compensation, the Board considers it a separation allowance. While all compensation subject to tier I payroll taxes is considered in the computation of a railroad retirement annuity, no additional service months can be credited after the month rights are relinquished.

If the employee retains job rights and receives monthly dismissal or coordination allowances, the payments are credited to the months for which they are allocated. This is true even if the employee relinquishes job rights after the end of the period for which a monthly dismissal allowance was paid. However, supplemental unemployment benefits paid under a Railroad Retirement Board-approved nongovernmental plan by a railroad or third-party are not considered compensation for railroad retirement purposes.

3. Suppose an employee is given a choice between (1) relinquishing job rights and having the payment he or she receives credited to one month or (2) retaining job rights and having the payment credited to the months for which it is allocated. What are some of the railroad retirement considerations the employee should keep in mind?

Individual factors such as an employee's age and service should be considered.

For example, if an employee is already eligible to begin receiving a railroad retirement annuity, he or she may find it advantageous to relinquish job rights, accept a separation allowance, and have the annuity begin on the earliest date allowed by law. Any periodic payments made after that date would not preclude payment of the annuity because the employee has relinquished job rights.

On the other hand, some younger employees may find it more advantageous to retain job rights and accept monthly compensation payments if these payments would allow them to acquire 120 months of creditable rail service and establish future eligibility for a railroad retirement annuity. Also, additional service months might allow a longer service employee to acquire 25 years of rail service, which is required for supplemental annuities paid by the Board, or 30 years of service, which is required for retirement as early as age 60. Establishing 25 years of service could also aid an employee in maintaining a current connection under the Railroad Retirement Act.

Another factor is the application of the railroad retirement maximum provision. Under this provision, the total amount of annuities payable under the Railroad Retirement Act to an employee and spouse is limited to an individual maximum. This maximum is based on the highest two years of the employee's creditable earnings in the 10-year period ending with the year the employee's annuity begins; and both railroad retirement and social security covered earnings are considered in determining the maximum. Because of the way the railroad retirement maximum is calculated, if an employee had diminished earnings, or no earnings, under railroad retirement or social security in the 10-year period ending with the year his or her annuity begins, the railroad retirement benefits payable could be substantially reduced.

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In any case, there are other financial or personal factors involved besides railroad retirement eligibility.

4. Why would maintaining a current connection be advantageous for railroad retirement purposes?

If a current connection is broken, an employee would lose eligibility for any supplemental annuity that may be payable by the Board. In some cases, a current connection can help to establish eligibility for certain disability benefits or vested dual benefits. In addition, if an employee does not have a current connection, the Social Security Administration, rather than the Railroad Retirement Board, would have jurisdiction of any survivor benefits that become payable in the future. The survivor benefits payable by the Board are generally greater than those paid by social security.

5. How would acquiring 25 years of railroad service assist an employee in maintaining a current connection?

The current connection requirement is normally met if the employee has railroad service in at least 12 of the last 30 consecutive months before retirement or death. Work outside the railroad industry following the 30-month period, and before retirement or death, may break an employee's current connection.

However, since 1981, a current connection can be maintained for purposes of supplemental and survivor annuities if the employee completed 25 years of railroad service, was involuntarily terminated without fault from the railroad industry, and did not thereafter decline an offer to return to work in the same class or craft as his or her most recent railroad service, regardless of the location of the work offered.

If all of these requirements are met, an employee's current connection may not be broken, even if the employee works in regular nonrailroad employment after the 30-month period and before retirement or death. This exception to the normal current connection requirement became effective October 1, 1981, but only for employees still living on that date who left the rail industry on or after October 1, 1975, or who were on leave of absence, on furlough, or absent due to injury on October 1, 1975.

6. Would the acceptance of a separation allowance have any effect on determining whether an employee could maintain a current connection under the exception provision?

In cases where an employee has no option to remain in the service of his or her employer, the termination of the employment is considered involuntary, regardless of whether the employee does or does not receive a separation allowance.

However, an employee who chooses a separation allowance instead of keeping his or her seniority rights to railroad employment would, for railroad retirement purposes,

generally be considered to have voluntarily terminated railroad service, and consequently would not maintain a current connection under the exception provision.

7. An employee with 25 years of service is offered a separation allowance with the option of either taking payment in a single lump sum or of receiving monthly payments until retirement age. Could the method of payment affect the employee's current connection under the exception provision?

If the employee had the choice to remain in employer service and voluntarily relinquished job rights prior to accepting the payments, his or her current connection would not be maintained under the exception provision, regardless of which payment option is chosen. Therefore, nonrailroad work after the 30-month period and before retirement could break the employee's current connection. Such an employee could only meet the current connection requirement under the normal procedures.

8. Are separation allowances subject to railroad retirement payroll taxes?

Under the Railroad Retirement Tax Act, which is administered by the Internal Revenue Service, payments of compensation, including separation allowances, are subject to the tier I and tier II rates and the annual maximum earnings bases in effect when the compensation is paid. This is true whether payment is made in a lump sum or on a periodic basis.

To the extent that the separation or severance payments do not yield additional tier II railroad retirement service credits, a lump sum, approximating part or all of the railroad retirement tier II payroll taxes deducted from separation or severance payments, will be paid upon retirement to employees with 10 or more years of service. This lump sum applies to separation and severance payments made after 1984.

If an employee has an option about how a separation allowance is to be distributed, he or she should consider the impact of both payroll taxes and income tax on the payments. Employees with questions in this regard should contact the payroll department of their railroad employer and/or the Internal Revenue Service.

9. Would an employee be able to receive unemployment or sickness benefits paid by the Railroad Retirement Board after accepting a separation allowance?

An employee who accepts a separation allowance cannot receive unemployment or sickness benefits for roughly the period of time it would have taken to earn the amount of the allowance at his or her straight-time rate of pay. This is true regardless of whether the allowance is paid in a lump sum or installments. For example, if an employee's salary was \$3,000 a month without overtime pay and the separation allowance was \$12,000, he or she would be disqualified from receiving benefits for approximately 4 months.

10. Can an employee receive unemployment benefits after his or her separation allowance disqualification period has ended?

An employee who has not obtained new employment by the end of the disqualification period and is still actively seeking work may be eligible for unemployment benefits at that time. The employee must meet all the usual eligibility requirements, including the availability for work requirement. An employee can establish his or her availability for work by demonstrating a willingness to work and making significant efforts to obtain work. In judging the employee's willingness to work, the Board considers, among other factors, the reason the employee accepted the separation allowance and the extent of his or her work-seeking efforts during the disqualification period.

11. Where can employees get more specific information on how benefits payable by the Board are affected by a separation allowance?

Employees should contact the nearest field office of the Railroad Retirement Board for information as to how a separation allowance they have been offered could affect their eligibility for benefits. However, Board personnel are not equipped to advise on other financial or personal factors, which may also bear consideration.

Most Board field offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday.

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